

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLES DEVON GARRETT,

Petitioner,

v.

SHAWN MOORE,

Respondent.

Case No. 1:22-cv-00899-JLT-HBK (HC)

ORDER DENYING PETITIONER'S
SECOND MOTION FOR IMMEDIATE
RELEASE FROM CUSTODY

(Doc. No. 31)

Petitioner Charles Devon Garrett, a state prisoner, is proceeding *pro se* on his Second Amended Petition for writ of habeas corpus under 28 U.S.C. § 2254 filed on December 1, 2022. (Doc. No. 24, SA Petition"). After screening, the Court issued an order on December 7, 2022 directing Respondent to respond to the SA Petition, but the response is not yet due. (Doc. No. 27). On February 1, 2023, Petitioner filed a second motion seeking immediate release on bail or on his own recognizance pending the Court's resolution of Petitioner's SA Petition. (Doc. No. 31). The motion, with exhibits, totals 232 pages. After detailing the various alleged errors in Petitioner's underlying state criminal trial, Petitioner argues that "the material facts as a whole"

1 constitute exceptional circumstances that warrant his release, and the “additional material facts in
2 the [motion for release] coupled with the issues raised in Petitioner’s Second Amended Petition
3 for writ of habeas corpus raises important and substantial constitutional questions . . . on which
4 Petitioner has a high probability of success.” (*Id.* at 13-16).

5 “Bail pending a decision in a habeas case is reserved for extraordinary cases involving
6 special circumstances or a high probability of success.” *Land v. Deeds*, 878 F.2d 318, 318 (9th
7 Cir. 1989). Respondent has not had an opportunity to respond to the SA Petition. Upon review
8 of the motion, the Court finds Petitioner has not demonstrated special circumstances warranting
9 his release or a high probability of success on the merits of his petition.

10 Accordingly, it is **ORDERED**:

11 Petitioner’s motion for release from custody prior to the Courts’ ruling on the SA Petition
12 (Doc. No. 31) is DENIED.

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Dated: February 2, 2023


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE

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